

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Tira Rene Palfini, P.A.)

Case No. 950-2014-000336

**Physician Assistant)
Certificate No. 22290)**

Respondent)


DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 6, 2018.

IT IS SO ORDERED November 6, 2018.

PHYSICIAN ASSISTANT BOARD

By: 
Robert E. Sachs, P.A., Chair

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **PHYSICIAN ASSISTANT BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **TIRA RENE PALFINI P.A.**
16 **P.O. Box 283**
17 **Tahoe Vista, CA 96148**

18 **Physician Assistant License No. PA 22290**

19 **Respondent.**

Case No. 950-2014-000336

OAH No. 2017061083

20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Maureen L. Forsyth (Complainant) is the Executive Officer of the Physician Assistant
25 Board (Board). She brought this action solely in her official capacity and is represented in this
26 matter by Xavier Becerra, Attorney General of the State of California, by Megan R. O'Carroll,
27 Deputy Attorney General.
28

2. Respondent Tira Rene Palfini P.A. (Respondent) is represented in this proceeding by attorney Robert H. Zimmerman, Esq., whose address is: 400 University Ave, Sacramento, CA 95825-6502.

3. On or about May 30, 2012, the Board issued Physician Assistant License No. PA 22290 to Tira Rene Palfini P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought in Accusation No. 950-2014-000336, and will expire on January 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 950-2014-000336 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 15, 2017. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 950-2014-000336 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 950-2014-000336. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 950-2014-000336, if proven at a hearing, constitute cause for imposing discipline upon her
4 Physician Assistant License.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
8 those charges.

9 11. Respondent further agrees that if she ever petitions for early termination or
10 modification of probation, or if an accusation and/or petition for revocation of probation is filed
11 against her before the Physician Assistant Board of California, all of the charges and allegations
12 contained in the Accusation No. 950-2014-000336, shall be deemed true, correct and fully
13 admitted by Respondent for purposes of any such proceeding, or other licensing proceeding
14 involving Respondent in the State of California.

15 12. Respondent agrees that her Physician Assistant License is subject to discipline and
16 she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
17 below.

18 CONTINGENCY

19 13. This stipulation shall be subject to approval by the Physician Assistant Board.
20 Respondent understands and agrees that counsel for Complainant and the staff of the Physician
21 Assistant Board may communicate directly with the Board regarding this stipulation and
22 settlement, without notice to or participation by Respondent or her counsel. By signing the
23 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
24 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
25 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
26 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
27 action between the parties, and the Board shall not be disqualified from further action by having
28 considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

1. IT IS HEREBY ORDERED that Physician Assistant License No. PA 22290 issued to Respondent Tira Rene Palfini P.A. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

2. CONTROLLED DRUGS-MAINTAIN RECORD Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's record or handed to a patient by the respondent during probation showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, 4) the indications and diagnosis for which the controlled substance was furnished, and 5) the name of supervising physician prescriber.

Respondent shall keep these records at the worksite in a separate file or ledger, in chronological order, and shall make them available for immediate inspection and copying by the Board or its designee, on the premises at all times during business hours, upon request and without charge.

The supervising physician shall review, sign, and date the controlled substances record weekly.

3. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. The course shall be Category I certified, limited to classroom, conference, or seminar settings. Respondent shall successfully complete the course within the first 6 months of probation.

Respondent shall pay the cost of the course. Respondent shall submit a certification of

1 successful completion to the Board or its designee within 15 days after completing the course.

2 4. ETHICS COURSE Within 60 days of the effective date of this decision, respondent
3 shall submit to the Board or its designee for its prior approval a course in ethics. The course shall
4 be limited to classroom, conference, or seminar settings. Respondent shall successfully complete
5 the course within the first year of probation.

6 Respondent shall pay the cost of the course.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee within 15 days after completing the course.

9 5. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the effective
10 date of this decision, respondent shall enroll in a course in prescribing practices equivalent to the
11 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
12 University of California, San Diego School of Medicine (program), approved in advance by the
13 Board or its designee. Respondent shall provide the program with any information and
14 documents that the program may deem pertinent. Respondent shall participate in and
15 successfully complete the classroom component of the course not later than six (6) months after
16 respondent's initial enrollment. Respondent shall successfully complete any other component of
17 the course within one (1) year of enrollment. The prescribing practices course shall be in addition
18 to the Continuing Medical Education (CME) requirements for renewal of licensure.

19 Respondent shall pay the cost of the course. The program shall determine whether
20 respondent successfully completes the course.

21 Respondent shall submit a certification of successful completion to the Board or its
22 designee not later than 15 calendar days after successfully completing the course, or not later than
23 15 calendar days after the effective date of the decision, whichever is later.

24 6. APPROVAL OF SUPERVISING PHYSICIAN Within 30 days of the effective date
25 of this decision, respondent shall submit to the Board or its designee for its prior approval the
26 name and license number of the supervising physician and a practice plan detailing the nature and
27 frequency of supervision to be provided. Respondent shall not practice until the supervising
28 physician and practice plan are approved by the Board or its designee.

1 Respondent shall have the supervising physician submit quarterly reports to the Board or its
2 designee.

3 7. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN

4 Respondent shall notify his/her current and any subsequent employer and supervising
5 physician(s) of the discipline and provide a copy of the Accusation, Decision, and Order to each
6 employer and supervising physician(s) during his/her period of probation, before accepting or
7 continuing employment. Respondent shall ensure that each employer informs the Board or its
8 designee, in writing within 30 days, verifying that the employer and supervising physician(s) have
9 received a copy of the Accusation, Decision, and Order.

10 This condition shall apply to any change(s) in place of employment.

11 The respondent shall provide to the Board or its designee the names, physical addresses,
12 mailing addresses, and telephone numbers of all employers, supervising physicians, and work site
13 monitor, and shall inform the Board or its designee in writing of the facility or facilities at which
14 the person practices as a physician assistant.

15 Respondent shall give specific, written consent to the Board or its designee to allow the
16 Board or its designee to communicate with the employer, supervising physician, or work site
17 monitor regarding the licensee's work status, performance, and monitoring.

18 8. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws, and all
19 rules governing the practice of medicine as a physician assistant in California, and remain in full
20 compliance with any court ordered criminal probation, payments, and other orders.

21 9. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
22 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
23 compliance with all the conditions of probation.

24 10. OTHER PROBATION REQUIREMENTS Respondent shall comply with the
25 Board's probation unit. Respondent shall, at all times, keep the Board and probation unit
26 informed of respondent's business and residence addresses. Changes of such addresses shall be
27 immediately communicated in writing to the Board and probation unit. Under no circumstances
28 shall a post office box serve as an address of record, except as allowed by California Code of

1 Regulations 1399.523.

2 Respondent shall appear in person for an initial probation interview with Board or its
3 designee within 90 days of the decision. Respondent shall attend the initial interview at a time
4 and place determined by the Board or its designee.

5 Respondent shall, at all times, maintain a current and renewed physician assistant license.

6 Respondent shall also immediately inform the probation unit, in writing, of any travel to
7 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
8 thirty (30) days.

9 11. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear in
10 person for interviews with the Board's medical or expert physician assistant consultant upon
11 request at various intervals and with reasonable notice.

12 12. NON-PRACTICE WHILE ON PROBATION Respondent shall notify the Board or
13 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
14 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in
15 which respondent is not practicing as a physician assistant. Respondent shall not return to
16 practice until the supervising physician is approved by the Board or its designee.

17 If, during probation, respondent moves out of the jurisdiction of California to reside or
18 practice elsewhere, including federal facilities, respondent is required to immediately notify the
19 Board in writing of the date of departure and the date of return, if any.

20 Practicing as a physician assistant in another state of the United States or federal
21 jurisdiction while on active probation with the physician assistant licensing authority of that state
22 or jurisdiction shall not be considered non-practice.

23 All time spent in a clinical training program that has been approved by the Board or its
24 designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension
25 or in compliance with any other condition or probation, shall not be considered a period of non-
26 practice.

27 Any period of non-practice, as defined in this condition, will not apply to the reduction of
28 the probationary term.

1 Periods of non-practice do not relieve respondent of the responsibility to comply with the
2 terms and conditions of probation.

3 It shall be considered a violation of probation if for a total of two years, respondent fails to
4 practice as a physician assistant. Respondent shall not be considered in violation for non-practice
5 as long as respondent is residing and practicing as a physician assistant in another state of the
6 United States and is on active probation with the physician assistant licensing authority of that
7 state, in which case the two year period shall begin on the date probation is completed or
8 terminated in that state.

9 13. UNANNOUNCED CLINICAL SITE VISIT The Board or its designee may make
10 unannounced clinical site visits at any time to ensure that respondent is complying with all terms
11 and conditions of probation.

12 14. CONDITION FULFILLMENT A course, evaluation, or treatment completed after
13 the acts that gave rise to the charges in the accusation, but prior to the effective date of the
14 Decision may, in the sole discretion of the Board or its designee, be accepted towards the
15 fulfillment of the condition.

16 15. COMPLETION OF PROBATION Respondent shall comply with all financial
17 obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the
18 completion of probation. Upon successful completion of probation, respondent's license will be
19 fully restored.

20 16. VIOLATION OF PROBATION If respondent violates probation in any respect, the
21 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and
22 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is
23 filed against respondent during probation, the Board shall have continuing jurisdiction until the
24 matter is final, and the period of probation shall be extended until the matter is final.

25 17. COST RECOVERY The respondent is hereby ordered to reimburse the Physician
26 Assistant Board the amount of \$12,209.00 within 90 days from the effective date of this decision
27 for its investigative costs. Failure to reimburse the Board's costs for its investigation shall
28 constitute a violation of the probation order, unless the Board agrees in writing to payment by an

1 installment plan because of financial hardship. The filing of bankruptcy by the respondent shall
2 not relieve the respondent of his/her responsibility to reimburse the Board for its investigative
3 costs.

4 18. PROBATION MONITORING COSTS Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant
7 Board and delivered to the Board no later than January 31 of each calendar year.

8 19. VOLUNTARY LICENSE SURRENDER Following the effective date of this
9 probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable
10 to satisfy the terms and conditions of probation, respondent may request, in writing, the
11 voluntarily surrender of respondent's license to the Board. Respondent's written request to
12 surrender his or her license shall include the following: his or her name, license number, case
13 number, address of record, and an explanation of the reason(s) why respondent seeks to surrender
14 his or her license. The Board reserves the right to evaluate the respondent's request and to
15 exercise its discretion whether to grant the request, or to take any other action deemed appropriate
16 and reasonable under the circumstances. Respondent shall not be relieved of the requirements of
17 his or her probation unless the Board or its designee notifies respondent in writing that
18 respondent's request to surrender his or her license has been accepted. Upon formal acceptance
19 of the surrender, respondent shall, within 15 days, deliver respondent's wallet and wall certificate
20 to the Board or its designee and shall no longer practice as a physician assistant. Respondent will
21 no longer be subject to the terms and conditions of probation and the surrender of respondent's
22 license shall be deemed disciplinary action. If respondent re-applies for a physician assistant
23 license, the application shall be treated as a petition for reinstatement of a revoked license.

24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Robert H. Zimmerman, Esq. I understand the stipulation and the
27 effect it will have on my Physician Assistant License. I enter into this Stipulated Settlement and
28

1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Medical Board of California.

3
4 DATED: 6/7/18


TIRA RENE PALFINI P.A.
Respondent

6 I have read and fully discussed with Respondent Tira Rene Palfini P.A. the terms and
7 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
8 I approve its form and content.

9 DATED: 6/7/18

 Bar No. 315438
ROBERT H. ZIMMERMAN, ESQ.
Attorney for Respondent

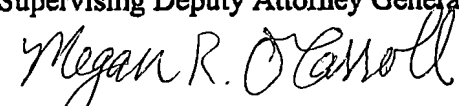
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12 ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Medical Board of California.

15
16 Dated: 6-7-18

Respectfully submitted,

17 XAVIER BECERRA
Attorney General of California
18 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

19 
20 MEGAN R. O'CARROLL
21 Deputy Attorney General
22 Attorneys for Complainant

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Exhibit A

Accusation No. 950-2014-000336

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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 15 2017
BY Robin Fitzwater ANALYST

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11 **BEFORE THE**
12 **PHYSICIAN ASSISTANT BOARD**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

Case No. 950-2014-000336

16 **TIRA RENE PALFINI¹, P.A.**
17 P.O. Box 283
Tahoe Vista, CA 96148

A C C U S A T I O N

18 Physician Assistant License No. PA 22290,
19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer
24 Affairs.

25 2. On or about May 30, 2012, the Physician Assistant Board issued Physician Assistant
26 License No. PA 22290 to Tira Rene Palfini, P.A. (Respondent). The Physician Assistant License

27 ¹ At the time of the events alleged in this Accusation, Respondent's name was Tira Rene
28 Wickland. She has since changed it to Palfini.

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 January 31, 2018, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Physician Assistant Board (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code (Code), unless otherwise indicated.

7 4. Section 3527 of the Code provides that the board may order the denial of an
8 application for, or the issuance subject to terms and conditions of, or the suspension or revocation
9 of, or the imposition of probationary conditions upon a physician assistant license for
10 unprofessional conduct.

11 5. Section 2234 of the Code states, in pertinent part:

12 "The board shall take action against any licensee who is charged with unprofessional
13 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
14 limited to, the following:

15 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
16 violation of, or conspiring to violate any provision of this chapter.

17 "(b) Gross negligence.

18 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
19 omissions. An initial negligent act or omission followed by a separate and distinct departure from
20 the applicable standard of care shall constitute repeated negligent acts.

21 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
22 that negligent diagnosis of the patient shall constitute a single negligent act.

23 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
24 constitutes the negligent act described in paragraph (1), including, but not limited to, a
25 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
26 applicable standard of care, each departure constitutes a separate and distinct breach of the
27 standard of care.

28 "(d) Incompetence.

1 “(e) The commission of any act involving dishonesty or corruption that is substantially
2 related to the qualifications, functions, or duties of a physician and surgeon.

3 “(f) Any action or conduct that would have warranted the denial of a certificate.”
4 ...”

5 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
6 adequate and accurate records relating to the provision of services to their patients constitutes
7 unprofessional conduct.”

8 7. At all times alleged herein, Section 3502² of the Code stated:

9 “(a) Notwithstanding any other provision of law, a physician assistant may perform those
10 medical services as set forth by the regulations adopted under this chapter when the services are
11 rendered under the supervision of a licensed physician and surgeon who is not subject to a
12 disciplinary condition imposed by the Medical Board of California prohibiting that supervision or
13 prohibiting the employment of a physician assistant.

14 “(b) Notwithstanding any other provision of law, a physician assistant performing medical
15 services under the supervision of a physician and surgeon may assist a doctor of podiatric
16 medicine who is a partner, shareholder, or employee in the same medical group as the supervising
17 physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant
18 to this subdivision shall do so only according to patient specific orders from the supervising
19 physician and surgeon.

20 “The supervising physician and surgeon shall be physically available to the physician
21 assistant for consultation when such assistance is rendered. A physician assistant assisting a
22 doctor of podiatric medicine shall be limited to performing those duties included within the scope
23 of practice of a doctor of podiatric medicine.

24 “(c)

25 (1) A physician assistant and his or her supervising physician and surgeon shall establish
26 written guidelines for the adequate supervision of the physician assistant. This requirement may

27 ² Business and Professions Code section 3502 was amended by Stats. 2015, Ch. 536, Sec. 2.
28 Effective January 1, 2016

1 be satisfied by the supervising physician and surgeon adopting protocols for some or all of the
2 tasks performed by the physician assistant. The protocols adopted pursuant to this subdivision
3 shall comply with the following requirements:

4 “(A) A protocol governing diagnosis and management shall, at a minimum, include
5 the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or
6 assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and
7 education to be provided to the patient.

8 “(B) A protocol governing procedures shall set forth the information to be provided to
9 the patient, the nature of the consent to be obtained from the patient, the preparation and
10 technique of the procedure, and the follow up care.

11 “(C) Protocols shall be developed by the supervising physician and surgeon or
12 adopted from, or referenced to, texts or other sources.

13 “(D) Protocols shall be signed and dated by the supervising physician and surgeon and
14 the physician assistant.

15 “(2) The supervising physician and surgeon shall review, countersign, and date a sample
16 consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician
17 assistant functioning under the protocols within 30 days of the date of treatment by the physician
18 assistant. The physician and surgeon shall select for review those cases that by diagnosis,
19 problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the
20 patient.

21 “(3) Notwithstanding any other provision of law, the Medical Board of California or board
22 may establish other alternative mechanisms for the adequate supervision of the physician
23 assistant.

24 “(d) No medical services may be performed under this chapter in any of the following areas:

25 “(1) The determination of the refractive states of the human eye, or the fitting or adaptation
26 of lenses or frames for the aid thereof.

27 “(2) The prescribing or directing the use of, or using, any optical device in connection with
28 ocular exercises, visual training, or orthoptics.

1 ///

2 “(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to,
3 the human eye.

4 “(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined
5 in Chapter 4 (commencing with Section 1600).

6 “(e) This section shall not be construed in a manner that shall preclude the performance of
7 routine visual screening as defined in Section 3501.”

8 8. At all times alleged herein, Section 3502.1 of the Code stated³:

9 “(a) In addition to the services authorized in the regulations adopted by the Medical Board
10 of California, and except as prohibited by Section 3502, while under the supervision of a licensed
11 physician and surgeon or physicians and surgeons authorized by law to supervise a physician
12 assistant, a physician assistant may administer or provide medication to a patient, or transmit
13 orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully
14 furnish the medication or medical device pursuant to subdivisions (c) and (d).

15 “(1) A supervising physician and surgeon who delegates authority to issue a drug order to a
16 physician assistant may limit this authority by specifying the manner in which the physician
17 assistant may issue delegated prescriptions.

18 “(2) Each supervising physician and surgeon who delegates the authority to issue a drug
19 order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific,
20 formulary and protocols that specify all criteria for the use of a particular drug or device, and any
21 contraindications for the selection. Protocols for Schedule II controlled substances shall address
22 the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is
23 being administered, provided, or issued. The drugs listed in the protocols shall constitute the
24 formulary and shall include only drugs that are appropriate for use in the type of practice engaged
25 in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is
26 acting on behalf of and as an agent for a supervising physician and surgeon.

27 ³ Business and Professions Code section 3502.1 was amended by Stats. 2015, Ch. 536,
28 Sec. 3. Effective January 1, 2016.

1 “(b) “Drug order,” for purposes of this section, means an order for medication that is
2 dispensed to or for a patient, issued and signed by a physician assistant acting as an individual
3 practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal
4 Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this
5 section shall be treated in the same manner as a prescription or order of the supervising physician,
6 (2) all references to “prescription” in this code and the Health and Safety Code shall include drug
7 orders issued by physician assistants pursuant to authority granted by their supervising physicians
8 and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be
9 the signature of a prescriber for purposes of this code and the Health and Safety Code.

10 “(c) A drug order for any patient cared for by the physician assistant that is issued by the
11 physician assistant shall either be based on the protocols described in subdivision (a) or shall be
12 approved by the supervising physician and surgeon before it is filled or carried out.

13 “(1) A physician assistant shall not administer or provide a drug or issue a drug order for a
14 drug other than for a drug listed in the formulary without advance approval from a supervising
15 physician and surgeon for the particular patient. At the direction and under the supervision of a
16 physician and surgeon, a physician assistant may hand to a patient of the supervising physician
17 and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon,
18 manufacturer as defined in the Pharmacy Law, or a pharmacist.

19 “(2) A physician assistant may not administer, provide, or issue a drug order to a patient for
20 Schedule II through Schedule V controlled substances without advance approval by a supervising
21 physician and surgeon for that particular patient unless the physician assistant has completed an
22 education course that covers controlled substances and that meets standards, including
23 pharmacological content, approved by the board. The education course shall be provided either by
24 an accredited continuing education provider or by an approved physician assistant training
25 program. If the physician assistant will administer, provide, or issue a drug order for Schedule II
26 controlled substances, the course shall contain a minimum of three hours exclusively on Schedule
27 II controlled substances. Completion of the requirements set forth in this paragraph shall be
28 verified and documented in the manner established by the board prior to the physician assistant's

1 use of a registration number issued by the United States Drug Enforcement Administration to the
2 physician assistant to administer, provide, or issue a drug order to a patient for a controlled
3 substance without advance approval by a supervising physician and surgeon for that particular
4 patient.

5 “(3) Any drug order issued by a physician assistant shall be subject to a reasonable
6 quantitative limitation consistent with customary medical practice in the supervising physician
7 and surgeon's practice.

8 “(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a
9 patient's medical record in a health facility or medical practice, shall contain the printed name,
10 address, and telephone number of the supervising physician and surgeon, the printed or stamped
11 name and license number of the physician assistant, and the signature of the physician assistant.
12 Further, a written drug order for a controlled substance, except a written drug order in a patient's
13 medical record in a health facility or a medical practice, shall include the federal controlled
14 substances registration number of the physician assistant and shall otherwise comply with the
15 provisions of Section 11162.1 of the Health and Safety Code. Except as otherwise required for
16 written drug orders for controlled substances under Section 11162.1 of the Health and Safety
17 Code, the requirements of this subdivision may be met through stamping or otherwise imprinting
18 on the supervising physician and surgeon's prescription blank to show the name, license number,
19 and if applicable, the federal controlled substances registration number of the physician assistant,
20 and shall be signed by the physician assistant. When using a drug order, the physician assistant is
21 acting on behalf of and as the agent of a supervising physician and surgeon.

22 “(e) The medical record of any patient cared for by a physician assistant for whom the
23 physician assistant's Schedule II drug order has been issued or carried out shall be reviewed and
24 countersigned and dated by a supervising physician and surgeon within seven days.

25 “(f) All physician assistants who are authorized by their supervising physicians to issue drug
26 orders for controlled substances shall register with the United States Drug Enforcement
27 Administration (DEA).

28 ///

1 “(g) The board shall consult with the Medical Board of California and report during its
2 sunset review required by Division 1.2 (commencing with Section 473) the impacts of exempting
3 Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to
4 review and countersign the affected medical record of a patient.”

5 9. At all times alleged herein, California Code of Regulations, title 16, section 1399.521
6 stated:

7 “In addition to the grounds set forth in section 3527, subdivision (a), of the Code, the
8 committee may deny, issue subject to terms and conditions, suspend, revoke, or place on
9 probation a physician assistant for the following causes: (a) Any violation of the State Medical
10 Practice Act which would constitute unprofessional conduct for a physician and surgeon. (b)
11 Using fraud or deception in passing an examination administered or approved by the committee.
12 (c) Practicing as a physician assistant under a physician who has been prohibited by the division
13 or the Osteopathic Medical Board of California from supervising physician assistants. (d)
14 Performing medical tasks which exceed the scope of practice of a physician assistant as
15 prescribed in these regulations.”

16 10. At all times alleged herein, California Code of Regulations, title 16, section
17 1399.540 stated:

18 “(a) A physician assistant may only provide those medical services which he or she is
19 competent to perform and which are consistent with the physician assistant's education, training,
20 and experience, and which are delegated in writing by a supervising physician who is responsible
21 for the patients cared for by that physician assistant.

22 “(b) The writing which delegates the medical services shall be known as a delegation of
23 services agreement. A delegation of services agreement shall be signed and dated by the physician
24 assistant and each supervising physician. A delegation of services agreement may be signed by
25 more than one supervising physician only if the same medical services have been delegated by
26 each supervising physician. A physician assistant may provide medical services pursuant to more
27 than one delegation of services agreement.

“(c) The committee or division or their representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures or management he or she is performing.

“(d) A physician assistant shall consult with a physician regarding any task, procedure or diagnostic problem which the physician assistant determines exceeds his or her level of competence or shall refer such cases to a physician.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTS

12. Beginning in or around 2012, Respondent worked as Physician Assistant under the supervision of Jay A. Hendrickson, M.D. (Dr. Hendrickson), and B.K.H., M.D., at a pain management practice with multiple locations in Northern California called Hendrickson & Hunt Pain Management Physicians, ("H&H"). On or about July 23, 2012, she took over the care of B.B., a 70-year old woman who had been seen constantly at H&H since she established in 2001.⁴

13. B.B.'s medical record from H&H contains an initial history and physical by Dr. Hendrickson, dated on or about August 24, 2001, indicating that B.B. was then a 59-year old woman referred to H&H for pain management with a chief complaint of low back pain. She rated her pain as 6/10. It indicated she had previously undergone a series of steroid injections and a laminectomy for back pain. It lists a medical history of hypertension, ulcers and cataracts. B.B. reported that she smokes a half a pack of cigarettes per day and has smoked for 25 years. Radiological tests showed bulging discs at multiple points of the spine and some degenerative

⁴ Facts alleged outside of the statute of limitations are for informational purposes.

1 changes and stenosis. She was diagnosed with degenerative disc disease. The treatment
2 recommendation was to increase use of Oxycontin to 80 mg three times per day, to discontinue
3 Vioxx, and to continue with aqua therapy and epidural steroid injections. She was scheduled to
4 be seen again in 8 weeks.

5 14. B.B.'s records show that she had monthly appointments at H&H up through the date
6 Respondent took over her care in or about July of 2012, with many significant medical events
7 over the years. For the first several months of her care with H&H, B.B. seen primarily by Dr.
8 Hendrickson who increased her Oxycontin use from 320 mg per day to 640 mg per day within the
9 first six months of treatment. He also initiated a short acting opioid for breakthrough pain in
10 B.B., and added a muscle relaxant. After the first few months of treatment, B.B. mostly saw mid-
11 level practitioners under the supervision of Drs. Hendrickson and B.K.H. Dr. B.K.H. provided a
12 series of physical medicine interventions such as nerve blocks and spinal injections, which rarely
13 seemed to provide any significant or lasting pain relief. Over the years, short acting opioids
14 alternated back and forth, usually between Percocet and Norco, and the relaxants alternated back
15 and forth between Baclofen and Soma. Throughout her time at H&H, providers attempted to put
16 B.B. on a medication to treat neuropathic pain, but she regularly stopped these medications herself
17 each time they were tried, complaining of side effects. B.B.'s pain consistently increased after the
18 first few years of treatment. B.B. had her first surgical intervention at U.C. Davis in or around
19 2002, and thereafter underwent a variety of surgeries and procedures which occasionally seemed
20 to provide some relief, so that she was sometimes reporting pain levels below 5/10. But after in
21 or around 2005 she rarely reported a pain score below 8/10, and by 2010, she almost always
22 reported her pain to be 9/10 or 10/10. B.B. had an intrathecal pump and a spinal stimulator
23 implanted, neither of which B.B. felt improved her condition.

24 15. For the vast majority of her time at H&H, B.B. was on Oxycontin, usually 640 mg per
25 day. A few times during her years with H&H, B.B. attempted to reduce the Oxycontin and she
26 actually seemed to be off of it entirely for a few months in or around the Spring of 2004. She
27 attempted again in or about July of 2006, this time replacing the Oxycontin with Methadone, but
28 only lasted a week or two before returning to Oxycontin. In or around March of 2007, the

1 provider attempted a "drug holiday" by replacing the Oxycontin with Opana and then Kadian.
2 B.B. returned to the Oxycontin within the month.

3 16. When B.B. began her care at H&H, she was diagnosed with degenerative disc disease,
4 and a few years later a diagnosis of myofascial pain syndrome was added. During 2005 the
5 diagnosis of myofascial pain syndrome was removed from B.B.'s record, and a new diagnosis of
6 post laminectomy syndrome replaced it. In or around 2005, providers at H&H raised the issue of
7 psychological counseling with B.B., but she was resistant to the idea. Anti-depressants were
8 prescribed to her, although there are indications that she was not compliant with the instructions
9 on these medications.

10 17. Indications that B.B. was not taking her controlled medications as prescribed began to
11 appear in the medical record in 2007. On or around April 18, 2007 there is a note in B.B.'s record
12 stating that a previous toxicology report showed the absence of any illicit drugs, but also that none
13 of controlled the drugs B.B. was prescribed were detected either. The note stated that B.B. would
14 have to repeat the toxicology test. At the next appointment, there was no record of a retest or that
15 the issue was raised with B.B. B.B.'s medical records regularly contained template language
16 stating that her current medical regimen had allowed the patient to increase her overall daily
17 function, and that without the current medical regimen the patient would not be able to continue
18 with his or her current activity level. There is also a template paragraph stating that the benefits
19 and risks of opioid/prescribed medication, including death, have been explained to the patient
20 who has a full understanding of the medications prescribed and agrees to proceed with medical
21 management, with all questions answered.

22 18. On or about June 18, 2008, B.B. saw a nurse practitioner and reported having a
23 trial of a Spinal Cord Stimulator with a provider in San Francisco. She reported her pain level
24 was 10/10 and received refills. On or about June 20, 2008, B.B.'s toxicology test was positive for
25 morphine and hydromorphone, although no provider at H&H had prescribed morphine. On or
26 about July 15, 2008, B.B. called into H&H to ask for an earlier appointment because she was
27 going out of state to visit a sick brother. Dr. Hendrickson provided a 30 day prescription for
28

1 Oxycontin. The Medical Assistant who answered the call asked B.B. about the positive morphine
2 result. B.B. stated that her physician in San Francisco gave her a morphine injection when
3 placing leads on the spinal cord stimulator. The Medical Assistant noted that she would inform
4 Dr. Hendrickson.

5 19. B.B. saw Dr. Hendrickson on or about October 14, 2008, reporting pain at 8-9/10.
6 He continued refills of Oxycontin and Norco. In or about November of 2008, B.B saw Dr.
7 B.K.H., who provided the refills of Norco and Oxycontin. In or around December of 2008, B.B.
8 had high blood pressure, which was not addressed and received refills. She had another refill
9 appointment on or about January 6, 2009. A January 9, 2009 toxicology result showed B.B. was
10 positive for oxymorphone and oxycodone, but negative for hydrocodone, despite being prescribed
11 Norco. On February 3, 2009 B.B. saw a Physician Assistant, reporting 10/10 pain level and
12 received refills on Norco and Oxycontin. There was no reference to the toxicology report in this
13 chart note, which Dr. Hendrickson co-signed on or about February 2, 2009. Chart notes were
14 similar and co-signed by him in March, and April.

15 20. On or about May 28, 2009, a provider refilled Norco, Oxycontin and Motrin. The
16 provider noted that the Baclofen was not helping B.B.'s muscle spasms. The provider ordered a
17 random toxicology screening. A June 12, 2009 toxicology report showed that B.B. was positive
18 for hydrocodone, hydromorphone, oxycodone and oxymorphone. The record indicated a need to
19 follow up with B.B. at her next appointment. But at B.B.'s next appointment on June 25, 2009,
20 there was no reference to the toxicology report. B.B. reported pain at 9/10 and medications were
21 refilled. The July 23, 2009 appointment record was similar. At the July appointment, B.B.
22 reported starting physical therapy. Although there is no reference to it in the treatment plan, Soma
23 starts to appear on her list of medications at 250 mg four times per day beginning at this date.

24 21. On or about August 20, 2009, B.B. reported her pain at 8/10 and Norco, Soma and
25 Oxycontin were refilled. It is noted that B.B. was also seeing a chiropractor.
26 On or around September 18, 2009, B.B. reported 8/10 pain. She stated that she is improving and
27 doing physical therapy exercises. A Physician Assistant noted that she stopped the Soma and is
28 trying to decrease the Oxycontin to 6 tablets per day. On or around October 16, 2009, B.B.

1 reported 8/10 pain and stated she thinks physical therapy is helpful. B.B. reported that the
2 Oxycontin is controlling her pain. The provider ordered a toxicology screening.
3 The Toxicology report was negative for Soma metabolites, but positive for oxycodone.
4 On or about November 13, 2009, the Physician Assistant noted that the toxicology screening was
5 within normal limits. He refilled Norco, Oxycontin and Soma. Neurontin was added. On or
6 about December 11, 2009, the medications were refilled except that Neurontin was stopped.
7 Exercise was encouraged. On or about January 8, 2010, B.B. reported pain at 9/10, and indicated
8 that she was hospitalized for week for treatment of kidney stones. The Oxycontin was refilled.
9 On or about February 3, 2010, Norco, Oxycontin, Soma, Neurontin, and Motrin were refilled. On
10 or about March 2, 2010, a toxicology screening was ordered. The March 16, 2010, toxicology
11 result was positive for morphine. On or about April 6, 2010, there was no documentation of
12 positive morphine result.

13 22. B.B. was seen by Dr. Hendrickson on or about May 11, 2010. He refilled Oxycontin,
14 Norco and Soma. He did not document any reference to the toxicology report. In or around June
15 and July, B.B. returned and received refills. She was seen on August 11, 2010, at which she
16 received refills of Norco, Soma and Oxycontin. An August 20, 2010 toxicology report showed
17 that B.B. was positive for metabolites of Soma and Oxycontin, but negative for hydrocodone,
18 despite being prescribed Norco and was again positive for morphine. The chart noted only that
19 B.B. takes Norco as needed.

20 23. On or about September 9, 2010 Dr. Hendrickson saw B.B., who reported 9/10
21 pain, and he refilled the Oxycontin. He did not document any reference to the positive morphine
22 result. The paragraphs referencing increasing function and informing patient of risks of
23 medications are included. During the fall of 2010, B.B. was seen monthly for refill appointments,
24 receiving Norco, Soma, and Oxycontin. She had been reporting and continued to report in
25 October that the medications were causing her constipation. In or around December 2010, the
26 provider ordered a toxicology screening be done.

27 24. On or about December 23, 2010, there is a note in the chart indicating that B.B.'s
28 toxicology result was again positive for morphine, but that B.B. denied taking morphine. The

1 note stated "A PAR has been ordered for this patient. Patient's PAR report was uneventful and
2 through research with the lab this appears to be a false negative." On or about January 12, 2011,
3 B.B. was seen by a Physician Assistant who refilled the Oxycontin and ordered another
4 toxicology screening.

5 25. On or around January 27, 2011, the toxicology report again showed positive for
6 morphine. On or about February 14, 2011, Dr. B.K.H. saw B.B., who reported 8/10 pain. The
7 note states "Patient has positive MS on tox screen. Dr. Hendrickson knows this patient well, and
8 has reviewed the results. She will follow up with him next month." He refilled the Oxycontin.

9 26. On or about March 15, 2011, Dr. Hendrickson saw B.B. She reported 7/10 pain.
10 Under treatment plan, the note stated "The patient states that she eats poppy seeds on a daily basis
11 and this is a possible reason for possible positive MS on tox screen." Dr. Hendrickson refilled the
12 Soma, Oxycontin, and Norco.

13 27. In the Spring of 2011, B.B. continued to be seen by Physician Assistants who
14 refilled the Oxycontin and instructed her to continue with the Norco and Soma. On or about May
15 20, 2011, B.B.'s toxicology results showed negative for metabolites of Soma, and Norco, and
16 negative for hydromorphone, but positive for oxycodone and oxymorphone.

17 28. On or about June 8, 2011, B.B. was seen by a Physician Assistant, reporting an 8/10
18 pain level. The note stated B.B. was taking Soma and Norco very infrequently which explained
19 last toxicology results. The Oxycontin, Norco and Soma were refilled. Dr. Hendrickson co-
20 signed the note on or about June 13, 2011. B.B. was seen again at H&H in July of 2011, with
21 Oxycontin, Norco, and Soma refilled. On or about July 15, 2011, B.B. called to schedule an
22 earlier appointment because she intended to travel out of state. The Medical Assistant explained
23 that medications cannot be refilled earlier than scheduled and that prescriptions will state that they
24 are not to be filled until the next scheduled date. B.B. stated she was not attempting to obtain an
25 early refill. On or about July 25, 2011, B.B. was seen and reported 9/10 pain. The provider noted
26 that she takes her medications as prescribed without side effects and stated "she was given one
27 advanced prescription." The provider did not sign the note, but it is co-signed by Dr.
28 Hendrickson. At this appointment B.B.'s blood pressure was 159/93, and her pulse was 71.

1 29. On or about August 31, 2011, B.B. returned and saw a Physician Assistant. She
2 reported she had a myocardial infarction on August 8, 2011 and was hospitalized for a week for
3 an angioplasty. She reported 6/10 pain. In addition to the template paragraphs regarding
4 informed consent and activity goal, the treatment notes indicated that "the medications were
5 reviewed and renewed as before, no changed were made. The patient feels they help to maintain a
6 more active lifestyle, including activities of daily living, with less pain. There is no adverse
7 effects reported today." Exercise and stretching were recommended.

8 30. On or about September 28, 2011, B.B.'s medications were refilled. On or about
9 October 26, 2011, B.B. reported that she was admitted to U.C. Davis for congestive heart failure
10 approximately 2 weeks ago, and that she is being managed with medications and will call with an
11 updated medication list. Oxycontin was refilled.

12 31. B.B. appeared for another refill of Oxycontin and Norco on or about November 22,
13 2011, and December 20, 2011. At the end of 2011, the diagnosis of degenerative disc disease was
14 replaced with idiopathic scoliosis, although there was no corresponding supporting documentation
15 or history and physical. The post laminectomy syndrome diagnosis remained.
16 On or about January 18, 2012, the medication list stated that the Soma was discontinued, although
17 it is not referenced in the notes of any of the previous several appointments. Also at the January
18 2012 appointment, B.B. reported 10/10 pain and was tearful regarding her constant pain. She
19 stated she has enough Norco for the month, but the Oxycontin was refilled. She reported new hip
20 pain, and was recommended to raise that with her primary care physician.

21 32. On or about February 21, 2012, B.B. continued to report increased pain. Her
22 medications were refilled. There is an updated opioid consent form signed by B.B. in the record,
23 dated February 21, 2012. On or about March 20, 2012, B.B. reported a 9/10 pain level and was
24 again started on Neurontin. She was scheduled for a random toxicology screen. The toxicology
25 screening was positive for oxycodone but negative for opiates. It was sent for confirmation which
26 was positive for Oxycodone and Oxymorphone only.

27 33. On or about April 17, 2012, B.B. reported 8/10 pain and stated that she was unable to
28 tolerate Neurontin and stopped it after four or five days. The Oxycontin was refilled, and

1 alternative pain management strategies such as mindfulness and relaxation techniques were
2 reportedly discussed. On or about May 18, 2012, B.B. reported a pain level of 9/10, and the note
3 stated that she was oriented with no obvious signs of CNS depression. The provider indicated
4 that she had not had nerve blocks attempted for a long time and did not recall how successful they
5 were in the past, so it would be appropriate to try them again. Her Oxycontin was refilled. At this
6 point, B.B. had been on the same Oxycontin dose of 160 mg, four times per day for years. She
7 reported that she was scheduled for a rectal prolapse repair in two weeks. On or about June 19,
8 2010, Dr. Hendrickson performed a nerve block with steroid injection under fluoroscopy and
9 conscious sedation.

10 34. On or about July 23, 2012, B.B. saw Respondent for the first time at H&H. On or
11 about July 23, 2012, B.B. reported having a prolapse repair with partial colectomy on July 12,
12 2012. Although there was a template history and physical, Respondent did not document a
13 comprehensive history with justification for continuing the treatment plan specific to B.B.'s status
14 and changed condition. Respondent refilled the Oxycontin. Dr. Hendrickson indicated that he
15 supervised Respondent during her care of B.B. and approved her treatment from or about July 23,
16 2012, up through and including her discharge from the practice on or about May 7, 2014.
17 Respondent has a Delegation of Services Agreement (DSA), with Dr. Hendrickson, listing him
18 and Dr. B.K.H. as physician supervisors for her. The DSA does not contain specific controlled
19 substances or a formulary for controlled substances to be relayed as drug orders under Dr.
20 Hendrickson's supervision. Respondent acknowledged that H&H has no written formulary of
21 controlled substances that Physician Assistants can relay orders for in the practice.

22 35. On or about August 20, 2012, Respondent refilled the Oxycontin, and Norco. B.B.
23 reported a pain level of 9/10. B.B. reported that she could not tolerate Neurontin, so Respondent
24 prescribed Lyrica for neuropathic pain.

25 36. A Medical Assistant entered a note indicating that a toxicology screen ordered at
26 the August appointment was positive for opiates and Oxycontin and that B.B. was prescribed
27 Norco, but further stated that there was no need for a confirmatory analysis. On September 19,
28

1 2012 B.B. again saw Respondent, reporting 8/10 pain. B.B. stated she had difficulty with the
2 Lyrica but will continue taking it. Lyrica and Oxycontin were refilled.

3 37. On or about October 17, 2012, Respondent refilled Oxycontin and prescribed a
4 Lidoderm patch. B.B.'s weight dropped to 101 pounds, and she reported 9/10 pain. She further
5 stated that she discontinued the Lyrica on her own. Her blood pressure was recorded as high.
6 Respondent continued to refill the Oxycontin 160 mg four times per day as it had remained for
7 several years.

8 38. On or about November 13, 2012, the medical software changed, but the notes
9 continued to contain the two template paragraphs stating that the patient is stable on current
10 medications, with increased function and that all benefits and risks of medication have been
11 discussed and understood. These chart notes are not co-signed by Dr. Hendrickson. B.B.'s
12 Oxycontin prescriptions continued to be refilled at same level each month, as well as Norco
13 prescriptions, with pain levels usually reported at 8/10 or 9/10. Actual prescriptions to B.B. from
14 H&H, however, were often issued in much higher numbers of pills than she was instructed to
15 take. On or about December 19, 2012, B.B. reported pelvic pain, and Respondent recommended
16 that she follow up with her primary care physician. These similarly template chart notes with
17 similar prescription orders continued during in or around January and February of 2013. In or
18 about February 2013, B.B. told Respondent that she had stopped the Lidoderm patches. B.B.
19 also reported having frequent and urgent bowel movements affecting her activity level and
20 depression.

21 39. On or about March 27, 2013, B.B. again reported her pain level at 9/10, and stated
22 that the frequent and urgent bowel movements continued. She stated she had a spinal cord
23 stimulator that did not help with the pelvic pain, which she thought stopped working following
24 straining after a bowel movement several years ago.

25 40. On or about April 25, 2013, the formatting of the medical records changed again.
26 From this point on, Respondent reported that B.B. had never smoked, in contradiction to her
27 initial history and physical at H&H, which reported a 25-year smoking history. On or about April
28 25, 2013, B.B. reported a pain level of 9/10, and stated that she fell and hit her head a glass table a

1 week earlier and had reduced hearing and vision. Respondent told B.B. to report to an Emergency
2 Room or urgent care immediately as she may have suffered a subdural hematoma. The note still
3 contained the template paragraphs that the medication prescribed allows greater function than
4 without it, and that all risks of medications were explained and understood. Respondent refilled
5 the Oxycontin and Norco. The instructions in the chart notes to B.B. are that she should take
6 Oxycontin both around the clock as needed.

7 41. On or about May 30, 2013, B.B. reported a pain level of 9/10. Respondent listed
8 diagnoses of post laminectomy syndrome, and periostitis without osteomyelitis, and pain in joint
9 involving pelvic region and thigh. There is no specific history and physical documentation
10 supporting the changed diagnosis. B.B.'s blood pressure is recorded as 167/87, and is not
11 addressed further in the note. Respondent refilled the Norco and Oxycontin. B.B. reported that
12 she had an MRI to rule out a hematoma following her fall and it was negative. Respondent
13 ordered an x-ray of her hip.

14 42. On or about June 27, 2013, B.B. reported 8/10 pain and the Oxycontin and Norco
15 were refilled. Respondent recommended a referral to an orthopedist for the hip, but B.B. declined
16 it at that time. On or about July 24, 2013, the Oxycontin was refilled. B.B. reported that her
17 primary care physician is following up with her for a possible diagnosis of rheumatoid arthritis.
18 On August 28, 2013, B.B. reported 10/10 pain and her Oxycontin and Norco were refilled. A
19 toxicology screen was ordered.

20 43. On or about September 28, 2013, B.B.'s pain was recorded at 10/10, and another
21 toxicology was ordered. Respondent charted that B.B. experienced occasional somnolence from
22 the medications, and that she did not drive with CNS depression. The Oxycontin was refilled.
23 There are no toxicology reports in the file that relate to any toxicology screens Respondent
24 ordered, and no references to the screening or reports in any of the medical records she signed.

25 44. On or about November 27, 2013, B.B. presented with 9/10 pain and reported that
26 she would be seen at U.C. Davis for treatment of gallbladder stones and had an endoscopy
27 scheduled. The Oxycontin and Norco were refilled. On January 17, 2014, the Oxycontin was
28 refilled, and the notes continue to remain similar.

1 45. On or about February 14, 2014, B.B. reported memory loss issues and stated that
2 she would follow up with her primary care physician. She further stated that she would have an
3 endoscopic gallbladder procedure performed later this month. B.B. again reported drowsiness and
4 constipation from the medications. The medications were refilled with no change in the regimen.

5 46. B.B. had gallbladder surgery at U.C. Davis, and was discharged on or around
6 February 26, 2014. She presented to the Emergency Department on or about February 27, 2014
7 for an apparent overdose of Oxycontin causing low blood pressure. She was admitted due to
8 "altered mental status," and to rule out complications from her surgery. She was diagnosed with
9 C-difficile and was treated with antibiotics for sepsis. She had a repeat gallbladder procedure at
10 U.C. Davis at the beginning of March 2014. She was admitted to the hospital UC Davis and had
11 another gallbladder surgery on or about March 7, 2014. During this hospitalization at U.C. Davis,
12 there was a consultation note from the Pharmacy Pain Management specialist, dated on or about
13 March 3, 2014 stating that B.B. was a complex patient with acute pain secondary to cholangitis.
14 The consultation note further stated that although B.B.'s regimen for opioid medications to be
15 taken at home, by mouth, each 24 hours was equivalent to 960 mg morphine per day, "currently,
16 patient's 24 hour opioid requirement equivalent to approximately 350 mg po morphine per day.
17 Questionable adherence to home regimen due to negative urine drug screen and current sensitivity
18 to hydromorphone IV. Patient may benefit from adjustment of analgesic regimen." B.B. was
19 released from UC Davis on or about March 14, 2014.

20 47. On or about March 17, 2014, B.B. presented at the Emergency Room at Mercy
21 Hospital of Folsom. She was diagnosed with hypotension most likely secondary to excessive
22 narcotic pain/medication. The discharge summary noted that B.B. had been discharged from U.C
23 Davis earlier that week following gallbladder surgery and a post-surgical infection. At that point,
24 she had reported taking 160 mg of Oxycontin four times per day and U.C. Davis reduced her to 80
25 mg twice per day. In an assessment and plan, it was noted that B.B. was dehydrated. The
26 discharging physician concluded that the use of opioids probably contributed to the hypotension
27 B.B. experienced and ordered physical therapy. He decreased the prescribed opioid dose and
28 referred B.B. to follow up with her pain management specialist.

1 48. On or about March 19, 2014, B.B. had an appointment at H&H with Respondent.
2 Respondent noted that B.B reported 10/10 pain and, "was in Mercy Folsom recently. We have
3 received a discharge summary." B.B. stated the pain has been intolerable since her gallbladder
4 surgery. There is a conflicting, lengthy note by Respondent. She states that B.B. has been stable
5 on high dose Oxycontin for the previous 10 years. She further indicated that B.B.'s acute or
6 surgical pain will be difficult to manage, and addressed issues of opioid-induced hyperalgesia.
7 Respondent noted that Mercy Folsom had reduced the Oxycontin dose to 80 mg three times per
8 day, but B.B.'s pain increased, so she will raise it, and make a slower titration schedule for the
9 Oxycontin. Respondent further referred B.B. for psychological counseling. The prescribed
10 amount of medication did not correspond to her instructions to B.B.

11 49. On or about March 26, 2014, B.B.'s husband left a telephone message stating that
12 B.B. had been experiencing cognitive impairment and mental confusion for months. He indicated
13 that she stops actions in mid-motion. He was concerned that the Oxycontin withdrawal may be
14 causing the symptoms. Respondent documented having informed him that cognitive impairment
15 is not a withdrawal symptom and that B.B. should follow up with her primary care physician for
16 an evaluation of possible mental status changes if necessary. She further directed him to continue
17 with the titration schedule for reducing the Oxycontin, and return in one week.

18 50. On or about April 2, 2014, Respondent noted that she would maintain B.B. on the
19 same dose and not continue further titration because B.B. complained of pain. On or about April
20 16, 2014, Respondent's notes indicated that B.B. said she managed to decrease her dose of
21 Oxycontin to 80 mg Q8H for the last week and she wanted to continue this because it is helping
22 her to have improved attention. It further indicated that B.B. had some 40 mg pills left over, so
23 Respondent directed her to continue her current regimen and that she may take the extra 40 mg if
24 the pain became too severe and to follow up in two weeks. Again the medications directions were
25 not clear and did not correspond to the prescribed amounts. Respondent noted that B.B. would be
26 having ultrasounds on her lower extremities to rule out venous thrombosis and that she had begun
27 counseling with the psychologist.

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1 51. On or about April 30, 2014, B.B. reported 10/10 pain and denied weakness or
2 fatigue, and was "alert and awake" and had "good mental clarity." The chart note also indicated,
3 that B.B. fell asleep twice while talking to the Medical Assistant, and had to catch herself before
4 falling out of the wheelchair while speaking to Respondent. Further, Respondent reported that
5 B.B. lost attention several times while speaking to her. B.B.'s family reported that she had been
6 having excessive sleepiness and had been falling out of her wheelchair recently, hitting her head
7 several times. As the lengthy note continued, Respondent wrote that the family was concerned
8 B.B. may not be taking the medications as prescribed and taking more than what she was
9 instructed. B.B. stated that she was taking the medications as prescribed. Respondent noted that
10 she told the family that if they believe she is not taking the medications appropriately they would
11 have to discontinue prescribing medications because this can be very dangerous. B.B.'s husband
12 then reported that he found a bottle of 100 tablets of 80 mg Oxycontin, unused. Respondent noted
13 that B.B. was due for urine screen, but did not have to urinate, and so she would do blood work
14 instead. The notes also stated that Respondent recommended B.B. continue with further titration
15 of the Oxycontin to 60 mg three times per day. But, there is no indication that blood work or
16 medication change was done. Instead, there was another statement that Respondent would "hold
17 off on prescribing medication." Respondent stated that she was concerned about the drowsiness
18 and referred B.B. to the Emergency Room immediately. The note also contained the template
19 paragraphs that the benefits and risks of opioid medication have been explained and the patient
20 agrees to proceed with medication management, and that the patient understands and all questions
21 have been answered, as well as the paragraph that the goal of medication is to improve function.

22 52. On or about April 30, 2014, after her appointment with Respondent, B.B. presented to
23 the Mercy Folsom Emergency Room. There is a complete history and physical performed stating
24 as follows: "History of MI, Chronic back pain on high dose Oxycontin, recent dx of bilateral
25 lower extremity DVT, referred to ER by pain specialist for frequent falls and altered mental
26 status. Fell yesterday and hit her head. 20-years of pack per day smoking, quit 10 years ago.
27 Limited social alcohol consumption HR 50, respiratory rate 17, BP 126/76 slightly bradycardiac.
28 Assessment and plan: altered mental status secondary to narcotic overdose with dehydration."

1 Among other orders, there was a request for pain management consult. She was maintained in
2 hospital and checked to rule out CVA. She was reported to be unsure of medications she was
3 taking, very drowsy, groggy and deconditioned, requiring a walker for ambulation.

4 53. B.B. was admitted to Mercy Hospital from on or about April 30, 2014 through May 1,
5 2014. She was diagnosed with altered mental status and frequent falls mostly likely secondary to
6 medication over use. A CT of the head was negative. The Emergency Room reduced B.B.'s
7 Oxycontin from 80 to 40 mg three times per day, and she was seen by physical therapy.

8 54. On or about May 2, 2014, B.B.'s husband left a telephone message for Respondent at
9 H&H. He stated that B.B. was discharged from Mercy Folsom and he would like to speak to
10 Respondent because Mercy Hospital recommended a medication consultation. He stated it was an
11 emergency and wanted to speak to her today. A Medical Assistant explained that Respondent was
12 busy and may not respond this morning. B.B.'s husband left another message that afternoon, and
13 the Medical Assistant instructed the husband that based on determination made by the physician
14 with Mercy Folsom H&H's Medical Director will have to review B.B.'s medication regimen.
15 The husband explained that B.B. was currently in extreme pain and asked for a prescription to
16 make her more comfortable while waiting for an appointment.

17 55. The final chart note on or about May 7, 2014, reflected an office visit with
18 Respondent at H&H. The note stated that B.B. reported having lost her Norco bottle and was
19 currently not taking the medication. Respondent stated that she had informed B.B. that she could
20 not continue to prescribe opioid medications "as was Dr. Hendrickson's decision because [she]
21 experienced an adverse event while taking Oxycontin and it is unclear if she was taking the
22 medication as prescribed." She further stated that she discussed a trial of Duragesic patches for
23 pain. The note then indicated that when Respondent asked B.B. if she had any further questions,
24 "the patient-provider relationship was breeched as the husband expressed his displeasure about
25 the care [she] had received with our clinic for the past 10 years. Due to the breech in the
26 provider-patient relationship I cannot prescribe further medications and provided the patient with
27 a titration schedule for her Oxycontin using the remaining tablets." She stated that she provided
28 her with a list of other pain management providers in the area.

- 1 a. Failing to conduct and document a detailed history and examination of B.B. upon
2 assuming her care;
- 3 b. Failing to appropriately address, document and alter treatment plan and medications
4 over the course of treatment and in response to reports of adverse effects from medications;
- 5 c. Failing to conduct periodic reassessment and documentation of the medical indications
6 for continuing or altering medications;
- 7 d. Failing to conduct appropriate medical management of comorbidities, or to refer for
8 medical treatment of physical symptoms of underlying medical conditions and to coordinate care
9 with other medical providers;
- 10 e. Providing excessive medications to B.B.;
- 11 f. Providing inconsistent and confusing directions to B.B. regarding her use of the
12 medications being prescribed to her and providing prescriptions that contradicted the instructions
13 to the patient on how to take the medications;
- 14 g. Attempting to treat a complex, chronic pain patient without adequate supervision from
15 her supervising physician;
- 16 h. Failing to obtain meaningful informed consent for the types and changes in the
17 medication provided to B.B.;
- 18 i. Failing to obtain consultations when appropriate and for addiction and dependence in
19 response to signs of possible medication misuse;
- 20 j. Failing to comply with DEA and drug manufacturer guidelines for prescribing, or to
21 document a reasonable basis to depart from these guidelines; and
- 22 k. Inappropriately terminating B.B. from care with insufficient alternative access to care
23 and follow up.

24 SECOND CAUSE FOR DISCIPLINE

25 (Repeated Negligent Acts)

26 62. Respondent has subjected her license to disciplinary action under sections 3527 and
27 2234, subdivision (c), for unprofessional conduct in that she engaged in repeated negligent acts as
28 follows:

1 63. Paragraphs 12 through 58 above are repeated here as if fully set forth.

2 64. Respondent was repeatedly negligent in her care and treatment of Patient B.B. for her
3 acts including, but not limited to, the following:

4 a. Failing to conduct and document a detailed history and examination of B.B. upon
5 assuming her care;

6 b. Failing to appropriately address, document and alter treatment plan and medications
7 over the course of treatment and in response to reports of adverse effects from medications;

8 c. Failing to conduct periodic reassessment and documentation of the medical indications
9 for continuing or altering medications;

10 d. Failing to conduct appropriate medical management of comorbidities, or to refer for
11 medical treatment of physical symptoms of underlying medical conditions and to coordinate care
12 with other medical providers;

13 e. Providing excessive medications to B.B.;

14 f. Providing inconsistent and confusing directions to B.B. regarding her use of the
15 medications being prescribed to her and providing prescriptions that contradicted the instructions
16 to the patient on how to take the medications;

17 g. Attempting to treat a complex, chronic pain patient without adequate supervision from
18 her supervising physician;

19 h. Failing to obtain meaningful informed consent for the types and changes in the
20 medication provided to B.B.;

21 i. Failing to obtain consultations when appropriate and for addiction and dependence in
22 response to signs of possible medication misuse;

23 j. Failing to comply with DEA and drug manufacturer guidelines for prescribing, or to
24 document a reasonable basis to depart from these guidelines; and

25 k. Inappropriately terminating B.B. from care with insufficient alternative access to care
26 and follow up.

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1 THIRD CAUSE FOR DISCIPLINE
2 (Failing to Establish Written Guidelines for
3 Physician Assistant Supervision)

4 65. Respondent has subjected her license to disciplinary action under sections 3527,
5 2234, subdivision (a), and sections 3503.1 and 3502, for unprofessional conduct in that she failed
6 to establish written guidelines including drug formularies for her supervision in providing
7 controlled substances to B.B. as a physician assistant.

8 66. Paragraphs 12 through 58 above are repeated here as if fully set forth.

9 67. As set forth in paragraphs 12-58, Respondent prescribed and altered medications for
10 B.B., a complex pain patient, without written guidelines or medication formularies to guide her
11 practice, and without obtaining prior authorizations from a supervising physician.

12 68. Respondent's conduct as described above constitutes unprofessional conduct in
13 violation of sections 3527, 2234, subdivision (a), 3502.1, and 3502, subdivision (b) of the Code,
14 and thereby provides cause for discipline to Respondent's physician assistant certificate.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Failure to Maintain Adequate and Accurate Records)

17 69. Respondent has subjected her license to disciplinary action under sections 3527, 2234
18 and 2266 for unprofessional conduct in that she failed to maintain adequate and accurate records
19 relating to the provision of services to patients.

20 70. Paragraphs 12 through 58 above are repeated here as if fully set forth.

21 71. As set forth above, Respondent failed to maintain adequate and accurate records of
22 the care provided to B.B., which constitutes unprofessional conduct in violation of sections 3527,
23 2234 and 2266 of the Code, and thereby provides cause for discipline to Respondent's Physician
24 Assistant certificate.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Physician Assistant Board issue a decision:

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1 1. Revoking or suspending Physician Assistant License No. PA 22290, issued to
2 Respondent Tira Rene Palfini, P.A.

3 2. Ordering Respondent Tira Rene Palfini, P.A. to pay the Physician Assistant Board the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3; and,

6 3. Taking such other and further action as deemed necessary and proper.
7

8 DATED: March 15, 2017


MAUREEN L. FORSYTH
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant